

# **Exhibit G**



1 (Proceedings taken in open court:)

2 THE CLERK: 2004 C 6756, U.S. Futures, et al., versus  
3 the Board of Trade, et al.

4 MR. HOGAN: Good morning, Judge.

10:22:23 5 Al Hogan of Skadden, Arps for CME defendant.

6 MR. QUINN: Good morning.

7 Bill Quinn for plaintiffs.

8 (Brief pause).

9 THE COURT: The last time we were here we were  
10:22:52 10 discussing what you turned over to DOJ that might be  
11 producible.

12 MR. HOGAN: Correct, Judge. Again, Al Hogan for the  
13 CME group.

14 Maybe I can take a stab because I believe you're  
10:23:06 15 right. At the last hearing the burden was on us, I believe, to  
16 go and think about the DOJ production and to try to come up  
17 with a sample of that production for the Court's benefit, and  
18 because I believe the Court envisioned that in the disposition  
19 of the motion to compel and discovery going forward the Court  
10:23:25 20 wanted to have a sense for what that DOJ production looked  
21 like.

22 If Your Honor has a few minutes, I guess a couple of  
23 things I would say first is that, I was here at the status  
24 hearing in December. There was a fair amount of discussion  
10:23:40 25 about what the purposes of the summary judgment motion were

1 that Your Honor reviewed.

2 I filed my appearance in this case in the middle of  
3 last year. So I'm more of a bystand- -- I'm not a bystander,  
4 I'm more of a historian about where the case has been in trying  
5 to get up to speed in the case.

10:23:54

6 I noted in preparation for this hearing that when that  
7 summary judgment process was initiated, Your Honor observed,  
8 and actually committed to plaintiff, that the summary judgment  
9 process would not end the case and that instead Your Honor had  
10 designed to streamline the case to resolve some issues to  
11 hopefully figure out what issues were still around and what the  
12 methods of proof might be to further resolve the case.

10:24:14

13 So I thought that was interesting. There was a lot of  
14 discussion last time about whether it was a success or failure.  
15 Your Honor envisioned that the case would actually continue  
16 beyond the summary judgment exercise.

10:24:31

17 So at the status hearing we did talk about the DOJ  
18 production, which has been, I believe, the parties' next focus  
19 about how to move forward in the case. And since that time,  
20 we've gone out and attempted to learn what that DOJ production  
21 is, we've attempted to come up with a sampling methodology to  
22 educate Your Honor on what it is, and we believe we have a  
23 proposal.

10:24:46

24 I have some slides. I don't want to take up a ton of  
25 time, but I have some slides that I'd love to hand up --

10:25:03

1 THE COURT: You're the last case on this morning's  
2 call. You can take all the time you think you need.

3 MR. HOGAN: I saw that. Thank you, Judge.

4 I have some slides. I have a copy for Mr. Quinn. And  
10:25:15 5 if I can hand those up, I think it will assist you in  
6 understanding what we believe we know and what would like to  
7 proceed with.

8 Is one copy sufficient?

9 THE COURT: Sure.

10:25:29 10 (Document handed to Court and Counsel:)

11 MR. HOGAN: So, Judge, what is the DOJ production?  
12 Slide 2 sort of gives us a sense for what we believe that  
13 production consists of. And the slide is entitled DOJ  
14 Electronic Production. I want to talk about that in a moment.  
10:25:43 15 But at the time of the DOJ production, CME and CBOT were  
16 obviously separate entities, that's the whole point.

17 There were, roughly, 10 million pages of electronic  
18 documents produced, that's what this front slide says. And  
19 again, as a student of the history of this case and there's  
10:26:00 20 some things that I saw on the record that I think I need to  
21 make a comment on right now, and that is that in addition to  
22 these 10 million pages, roughly 10 million pages of documents,  
23 the CME produced approximately 370,000 pages of documents in  
24 purely paper form. CBOT produced approximately 150,000 pages  
10:26:23 25 in purely paper form.

1 Now, what I need to make sure that we're clear -- and  
2 that was referenced in some briefing, it was referenced in a  
3 hearing in 2007. The focus has been on the 10 million pages of  
4 electronic documents.

10:26:38

5 As to the CME, 370,000 pages of electronic documents,  
6 I want to be clear that those documents, as presented to the  
7 DOJ, are not available in the sense that, the collective  
8 version of those documents, there are not 370,000 pages of  
9 paper documents sitting around for review in this case. They

10:26:59

10 do not exist. Those pages, as produced to the DOJ, those pages  
11 are gone.

10:27:18

12 What we still believe we have are, obviously, the  
13 10 million pages of electronic documents, and I believe we have  
14 the 150,000 of CBOT paper production because those were, we  
15 believe, reduced to electronic form. But just to be completely  
16 clear about the record, 370,000 pages of paper documents, we  
17 cannot access those in the form that they were produced to the  
18 DOJ.

19 So that's the overview --

10:27:32

20 THE COURT: Stop, stop for a second. You said cannot  
21 reproduce in the form that they were produced to DOJ.

22 MR. HOGAN: Correct.

23 THE COURT: They can be produced in some other form?

24 MR. HOGAN: Correct. And two things on that appoint.

10:27:44

25 First of all, in this case, one of the things that the parties

10:28:02

1 were able to accomplish was, I believe, a comprehensive paper  
2 production was executed for this case in the middle of 2006.  
3 So the parties had agreed on what the scope of discovery would  
4 be, more or less, and I believe both parties went and pulled  
5 the paper documents that were responsive in this case, that  
6 production has already been completed.

10:28:21

7           The second thing is, you're right, the language I used  
8 was very precise. What happened was, 370,000 pages were  
9 gathered, put in boxes and sent to the DOJ. We don't have  
10 those, but we have no reason to believe that the documents  
11 weren't already produced for the Urex litigation. Those  
12 documents that might still exist at CME, you know, don't cover  
13 the entire universe, but I need to state that to be very clear  
14 about what the DOJ production was and what we still have  
15 access to.

10:28:39

16           So with that, Judge, the next slide, Slide 3, tries to  
17 give a sense, a little more detail, about what is contained in  
18 the CME electronic production. The next slide does the same  
19 thing with respect to the CBOT production.

10:28:59

20           So I do just want to tick down a little bit because  
21 there are some relevant data points here. As for CME, there  
22 were 58 custodians who provided documents to the DOJ. 25 of  
23 those custodians overlap with custodians who have been  
24 identified, at this point, as potentially possessing responsive  
25 documents in the Urex case. So there's some overlap but it's

10:29:24

1 not a perfect overlap.

10:29:43

2 The data in terms of the number of documents, that is  
3 what it is. Dropping down to this number of hard drives  
4 produced, 22, and CD ROMs produced, 6, the thing to understand  
5 about that is that the production was organized by custodian,  
6 but as to any one custodian, that custodian's documents may  
7 appear across multiple drives.

10:30:03

8 So, again, stated in a negative, this was a response  
9 to a DOJ request--and we'll talk about that request--the  
10 documents are not organized, as far as I can tell, in any  
11 fashion as responsive to the specific DOJ requests. It is a  
12 custodian-driven production. Having said that, the custodian  
13 documents are spread across multiple drives to, more or less,  
14 extend depending on the custodian. So that is the nature of  
15 the CME production.

10:30:25

16 If you look at the next page, that's Slide 4, that is  
17 also my understanding of the way the CBOT production was  
18 executed, again not by responsiveness to a DOJ request but by  
19 custodian. There were 55 custodians that participated in the  
20 DOJ response, 22 of those overlap with the Urex identified  
21 custodians, 21 hard drives for CBOT.

10:30:48

22 Another aspect of this production, and you'll see it  
23 on both of these slides, we talk about shared drives. And so  
24 roughly half of the documents produced to the DOJ--someone will  
25 yell at me if I get that wrong--roughly half of the documents

10:31:14



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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE  
RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER

/s/Blanca I. Lara

date

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Blanca I. Lara

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Date